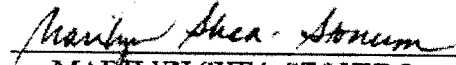


IT IS SO ORDERED.

Dated: 12:07 PM October 09 2008


MARILYN SHEA-STONUM
U.S. Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:	:	Chapter 11
	:	
AKRON THERMAL, LIMITED	:	Case No. 07-51884
PARTNERSHIP,	:	
	:	
Debtor.	:	Chief Judge Marilyn Shea-Stonum

AGREED ORDER RESOLVING OBJECTION TO CONFIRMATION
FILED BY THE UNITED STATES OF AMERICA ON BEHALF OF
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

On August 21, 2008, the United States, on behalf of the Environmental Protection Agency ("EPA"), filed an Objection to the Second Amended Plan of Reorganization for Akron Thermal, Limited Partnership [Docket No. 497] (the "Objection"). The Debtor, the United States, and the Committee of Unsecured Creditors agree that the Objection shall be resolved by this Agreed Order.¹

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed in the Second Amended Plan of Reorganization dated July 14, 2008 (the "Plan").

1. Claim No. 49 filed by the United States on behalf of EPA shall be allowed as a general unsecured claim in Class 3.2 under the Plan in the amount of \$1,100,000, and shall be satisfied in accordance with the terms of the Plan. The United States shall be deemed to have withdrawn any portion of EPA's unsecured prepetition claim for any amount in excess of \$1,100,000. EPA shall assert no additional prepetition claim.

2. In no event shall the Claim allowed pursuant to the preceding paragraph be subordinated to any other Claim in Class 3.2 pursuant to any law that may be contended to authorize or provide for the subordination of Claims, including without limitation Sections 105, 510, 726(a)(4), and 1129 of the Bankruptcy Code.

3. The Reorganized Debtor will increase the amount of the Creditors' Trust Note to \$2,060,000 (subject to reduction for payments to Class 3.1 Claims as described in the Note).

4. The following will be included in the Plan as a modification thereof:

12.4 With respect to the United States of America ("USA") only, and except as otherwise provided in the Agreed Order Resolving Objection to Confirmation Filed By The United States of America on Behalf of the Environmental Protection Agency, the terms of which shall remain in full force and effect, nothing in the Confirmation Order or the Plan: (i) discharges, releases, or precludes any environmental liability that is not a Claim; (ii) discharges, releases, or precludes any environmental Claim of the USA that arises on or after the Effective Date; (iii) releases the Debtor or Reorganized Debtor from any liability under environmental law as the owner or operator of property that the Debtor or Reorganized Debtor owns or operates after the Effective Date; (iv) releases or precludes any liability under environmental law on the part of any Person other than the Debtor and Reorganized Debtor; or (v) enjoins the USA from commencing or continuing against the Debtor or Reorganized Debtor any action or other proceeding that was or would have been authorized before the Effective Date pursuant to the police and regulatory exception to the automatic stay.

5. The EPA shall be allowed an Administrative Claim in the amount of \$25,000 for postpetition penalties from June 18, 2007 through the Effective Date ("EPA's Administrative

Claim”) which shall be satisfied within 180 days after the Effective Date. This stipulation as to the amount of postpetition penalties is contingent upon the Effective Date being no later than December 31, 2008. EPA shall assert no additional administrative claim.

6. In no event shall EPA’s Administrative Claim be subordinated to any other Administrative Claim pursuant to any law that may be contended to authorize or provide for the subordination of Administrative Claims, including without limitation Sections 105, 510, 726(a)(4), and 1129 of the Bankruptcy Code.

7. The approval of this Agreed Order by the Bankruptcy Court, together with Claim No. 49 and EPA’s Administrative Claim, shall be deemed to satisfy the requirement for filing by the United States of a proof of claim, application for payment of an administrative expense, or any other request, demand, or filing for the disbursement to the United States of funds pursuant to this Agreed Order. No further proof of claim, application for administrative expense, or any other request, demand, or filing by the United States shall be required.

8. This Agreed Order resolves Claim No. 49 and EPA’s Administrative Claim as they relate to civil penalties for any days of violation by the Debtor occurring through the Effective Date. Nothing in this Agreed Order is intended, or shall be construed, to operate in any way to resolve any other civil liability, or any criminal liability, of the Debtor, Reorganized Debtor, or any other Person, including without limitation any liability of the Reorganized Debtor for injunctive relief or civil penalties under the Clean Air Act (“CAA”) for any days of violation occurring after the Effective Date.

9. The Parties agree that the settlement reflected in this Agreed Order is based on considerations unique to confirmation of the Plan and is not indicative of the amount of civil penalties that may be appropriate for any days of violation of the CAA by the Reorganized

Debtor occurring after the Effective Date. Likewise, the parties agree that this Order is not an admission by the Debtor that it has violated the CAA (or any other environmental law). This Order is simply an agreed resolution of certain issues as described herein, and the Debtor expressly reserves its right to challenge any claim by the EPA with respect to matters not resolved herein, including any claim that Debtor violated the CAA.

10. This Agreed Order is contingent upon its approval by the Bankruptcy Court and upon confirmation of the Plan. If this Agreed Order is not approved or the Plan is not confirmed, the settlement reflected herein shall be of no force and effect, shall have no residual probative value, and shall not be deemed to be a waiver of any right by any of the Parties with respect to the matters contained herein.

IT IS SO ORDERED.

###

APPROVED:

SCHOTTENSTEIN, ZOX & DUNN CO., LPA

/s/ Daniel R. Swetnam

Daniel R. Swetnam (0011022)

Tyson A. Crist (0071276)

250 West Street, Suite 700

Columbus, OH 43215

(614) 462-2700; Fax: (614) 462-5135

Email: dswetnam@szd.com

tcrist@szd.com

and

Robert M. Stefancin (0047184)

1350 Euclid Ave., Suite 1400

Cleveland, OH 44115

(216) 394-5068; Fax: (216) 394-5085

Email: rstefancin@szd.com

Attorneys for Debtor and Debtor-in-Possession

/s/ James L. Bickett

James L. Bickett (0005598)
Assistant U.S. Attorney
Federal Building, Room 208
2 South Main Street
Akron, OH 44308-1855
(330) 761-0523; Fax: (330) 375-5561
Email: james.bickett@usdoj.gov

Counsel for United States

BAKER & HOSTETLER, LLP

/s/ Joseph Hutchinson

Joseph F. Hutchinson (0018210)
Kelly S. Burgan (0073649)
3200 National City Center
1900 E. Ninth Street
Cleveland, OH 44114-3485
Telephone: (216) 621-0200
Facsimile: (216) 696-0740
Email: jhutchinson@bakerlaw.com
Email: kburgan@bakerlaw.com

*Counsel for the Committee of
Unsecured Creditors*

